

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOEL SHANE HUDSON and ROSANNA JANE
HUDSON,

Plaintiffs,

v.

Civ. No. 24-456 GJF/SCY

UNITED STATES OF AMERICA, UNITED
STATES FOREST SERVICE (USFS), and
UNITED STATES DEPARTMENT OF
AGRICULTURE (USDA),

Defendants.

ORDER GRANTING EXTENSION OF TIME TO SERVE

This matter is before the Court following its Order to Show Cause (Doc. 9) and Plaintiffs' response (Doc. 10). In the Order to Show Cause, the Court notified Plaintiffs that the time to effect service in this case had expired. Doc. 9 at 1. The Court also informed Plaintiffs: "the record reflects that no summonses have been issued and no Defendants have been served." *Id.*

In response to the Order to Show Cause, Plaintiffs filed a motion for extension of time to effect service. Doc. 10. The motion states: "we are submitting the following proof of the lawsuit copies and waiver of service of summons forms being sent to all applicable parties on 08-15-2024 as well as a secondary revised mailing on 09-17-2024." Doc. 10 at 1.

But there is no procedure or obligation for Defendants here—the United States and its agencies—to waive service of the summons. Federal Rule of Civil Procedure 4(d), the waiver of service provision, only applies to "[a]n individual, corporation, or association that is subject to service under Rule 4(e), (f), or (h)." The United States and federal agencies are subject to service under Rule 4(i)(1) and (2), rather than any of the subsections recited in Rule 4(d). The advisory committee notes make this clear: "The request for waiver of service may be sent only to

defendants subject to service under subdivision (e), (f), or (h). The United States is not expected to waive service” Rule 4, Advisory Committee Notes, 1993 Amendment. Plaintiffs have not fulfilled their obligation to effect service by sending a waiver request to the United States.

The docket reflects that Plaintiffs still have not requested issuance of the summons from the Clerk of Court. For this additional reason, Plaintiffs have not properly effected service. Fed. R. Civ. P. 4(c)(1). Plaintiffs are further notified that service of a blank summons without the signature and seal of the Clerk of Court does not effect proper service. *Id.* Rule 4(a)(1)(F), (G). For an explanation of how to prepare the summons or other questions, Plaintiffs should consult the Guide for Pro Se Litigants online at <https://www.nmd.uscourts.gov/sites/nmd/files/ProSePackage.pdf>.

The Court will grant Plaintiffs’ request to extend the time to serve the complaint and summons.

IT IS THEREFORE ORDERED that, in order to avoid dismissal of this action, Plaintiffs must effect service or request an extension of time to do so, on or before **December 2, 2024**.


Steven C. Yarbrough
United State Magistrate Judge